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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,729	12/05/2003	Franz Ehrenleitner	OST-031199	1721

56973 7590 10/16/2006

THE WATSON INTELLECTUAL PROPERTY GROUP, PLC
3133 HIGHLAND DRIVE
SUITE 200
HUDSONVILLE, MI 49426

EXAMINER

FOX, CHARLES A

ART UNIT PAPER NUMBER

3652

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/728,729	Applicant(s) EHRENLEITNER, FRANZ	
	Examiner Charles A. Fox	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammon et al. in view of Dane, Jr. Regarding claims 1 and 4 Hammon et al. US 4,761,112 teaches a manipulator comprising:

- a supporting carriage (3) movable along at least one supporting rail by means of a drive;

- a lift device (1) carried by said carriage;

- a lifting apparatus comprising at least two traction means for raising and lowering said lift device in a vertical direction;

- a stabilizing device comprising:

- a carriage (7) movable by drive means along a guide rail such that it is vertically removed and parallel to said supporting rail;

- a substantially rigid arm (6) pivotally connected to said carriage (7) and said lift means;

- wherein said arm is lengthwise extendable;

- a control device for moving said carriages and said lifting apparatus such that said lifting means is moved to a predetermined position. Hammon et al. does not teach

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the device being used in a storage facility. Dane, Jr. US 3,786,942 teaches a storage facility comprising:

- a plurality of spaced apart storage locations;
- at least one aisle way running along said storage locations;
- a lifting device (70) movable in said aisle way to move objects into and out of said storage spaces;
- a structure for holding said objects while they are moved;
- a lift device for raising and lowering said structure;
- said lift device having at least two traction devices for holding cable;
- controls for moving said lift device to a preselected storage location. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Hammon et al. with storage spaces as taught by Dane, Jr. in order to allow the device to place an object in a space not easily accessible to an operator with precision.

Regarding claim 2 Hammon et al. also teach that the arm comprises two parallel bars.

Regarding claims 5 and 6 Hammon et al. teaches that the arm is pivotally connected to said lifting device via a swivel arm that can be locked on place relative to said arm. It would have been obvious to one of ordinary skill in the art, at the time of invention that a similar device could be provided on either end or both ends of the arm as the duplication of parts is within the grasp of one of ordinary skill in the art.

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Regarding claim 7 Hammon et al. also teach that the arm (6) is telescopic and capable of being locked in a preselected length.

Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of Hammon et al. The admitted prior art teaches a storage system comprising:

- a plurality of spaced apart storage locations;
- at least one aisle way running along said storage locations;
- a platform movable in said aisle way to move objects into and out of said storage spaces;
- a locking means for holding said platform to a movable support carriage;
- a lift device for raising and lowering said platform;
- said lift device having at least two traction devices for holding cable;
- controls for moving said lift device to a preselected storage location. The admitted prior art does not teach a stabilizing arm on the platform. Hammon et al. teaches a manipulator comprising:

- a supporting carriage (3) movable along at least one supporting rail by means of a drive;
- a lift device (1) carried by said carriage;
- a lifting apparatus comprising at least two traction means for raising and lowering said lift device in a vertical direction;
- a stabilizing device comprising:

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a carriage (7) movable by drive means along a guide rail such that it is vertically removed and parallel to said supporting rail;

a substantially rigid arm (6) pivotally connected to said carriage (7) and said lift means;

wherein said arm is lengthwise extendable;

a control device for moving said carriages and said lifting apparatus such that said lifting means is moved to a predetermined position. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by the admitted prior art with a stabilizing arm as taught by Hammon et al. in order to prevent a moment about the platform during movement of a device thereby allowing the device to operate in a more controlled manner.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hammon et al. and Dane, Jr. as applied to claim 2 above, and further in view of Styles. Hammon et al. teaches the limitations of claim 2 as above they do not teach cross braces between the stabilization arms. Styles US 5,356,214 teaches a lift device with a plurality of parallel arms(38,42) that are connected by a plurality of cross braces. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Hammon et al. with cross members as taught by styles in order to help counter act moments about the stabilization arms thereby making the device more stable under unevenly loaded objects.

Response to Amendment

The amendments to the abstract have been entered into the record.

Response to Arguments

Applicant's arguments filed August 7, 2006 with respect to the 35 U.S.C. 112 rejection of claim 8 has been fully considered and are persuasive. The rejection of claim 8 under 35 U.S.C. 112 has been withdrawn. Applicant argument that one of ordinary skill would be able to understand the locking mechanism as it is well known in the art is persuasive as this position was presented by the examiner in the previous art rejection of claim 8.

Regarding the spelling of stabilizing, the applicant is correct that the alternate can be used as the United States Patent office accepts the British spelling of common words. The dictionaries used by the examiner did not contain the British spelling, but the evidence provided by the applicant is sufficient to overcome the objection.

Applicant's arguments filed August 7, 2006 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually regarding the rejections of claims 1,2 and 4-7, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that Hammon et al. is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the

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claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the Hammon et al. reference employs a device similar to the instant invention or moving an object from one position to a second predetermined position. As such the structure of the Hammon et al. device is analogous art.

Regarding the rejections of claims 1 and 8, first the applicant in remarks filed on August 7, 2006 has stated that the locking devices are well known in the art. Regarding the particulars of claim 1 these are covered in paragraph 0001 of the specification which at lines 1 and 2 of paragraph 0003 are said to be known in the art. Any structure that is said to be known in the art is considered admitted prior art and will be used as such. The claims stand rejected as before.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Charles A. Fox 10-13-06
Charles A. Fox
Examiner
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